IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2007

CORAM

THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MRS.JUSTICE CHITRA VENKATARAMAN

T.C.(A).Nos.149 to 153 of 2004

Commissioner of Income Tax,
Chennai. .. Appellant

Vs.

M/s.Cholamandalam Investment &
Finance Co. Ltd.,
Chennai .. Respondent

Appeals under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'A' Bench, Chennai dated 28.2.2006 in ITA Nos.70 to 74/Mds/2002 for the assessment years 1993-94 to 1996-97 and 1999-2000. against the order of the Commissioner of Income Tax (Appeals) Central I, Chennai dated 6.6.2002 in ITA Nos. 2 to 6/2002 - 2003 for the assessment year 1993-94, 1994-95 1995-96 1996-97 and 1999-2000 and against order in PAN/GIR No.AAACC 1226 H dated 6.3.2002 dated 6.3.2002, dated 7.3.2002, dated 7.3.2002 & dated 28.2.2002 of the Asst Commissioner of Income Tax Central Range I (4) Chennai 34.

For Appellant :Mr. J.Narayanasamy, Jr.SC for IT

J U D G M E N T

(Delivered by P.D.DINAKARAN,J.)

The above tax case appeals are directed against the order of the Income-tax Appellate Tribunal in ITA Nos.70 to 74/Mds/2002 28.2.2006, raising the following common substantial question of law.

> "Whether in the facts and circumstances of the case, the Tribunal was right in excluding additional discount charges from the chargeable interest under the Interest Tax Act?"

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2.1. The assessee, a non-banking finance company, excluded additional discount charges from chargeable interest for all the assessment years, but the assessing officer added the same as chargeable to interest under section 2(7) of the Interest Tax Act.

2.2. The Commissioner of Income-tax (Appeals), on appeal, held that the additional discount charges are not chargeable to interest under Interest Tax Act. The Appellate Tribunal, on appeal, confirmed the order of the Commissioner of Income-tax (Appeals). Hence, the present appeal raising the substantial question of law referred supra.

3. To decide the issue whether the additional discount charges are not liable to tax under Interest Tax Act, it is useful to refer the decision in C.I.T. v. State Bank of Travancore (228 ITR 40) wherein the Kerala High Court held that the character of an overdue bill is wholly distinct from loans and advances and the interest on the loans and advances alone is taxable under the Interest Tax Act and the character of an overdue bill is not synonymous with loans and advances and therefore, the interest on overdue bills is to be excluded from chargeable interest under the Interest Tax Act.

4. Applying the above ratio to the facts of the case, we hold that the interest Tax Act is attracted only in respect of interest on loans and advances and the additional discount charges which is an amount given as a premium, would not attract the provisions of the interest Tax Act. The Appellate Tribunal is therefore correct in excluding additional discount charges from the chargeable interest under the Interest Tax Act.

Finding no substantial question of law that arises for our consideration, the appeals are dismissed at the admission stage itself.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Assistant Registrar,
Income Tax Appellate Tribunal, Rajaji Bhavan,
III Floor Besant Nagar, Madras.90

2.The Commissioner of Income-
Tax (Appeals), Central-1, Madras.

3.The Asst. Commr. of Income-tax,
Central Range I(4), Madras.

4. The Commissioner of Income Tax, Chennai,

+ 1 cc to M/s. Pushya Sitaraman, Advocate SR No. 12026

AVA(CO)
SR/15.3.2007

T.C.(A).Nos.149 to 153 of 2007

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